



WEB COPY

W.A(MD)No.48 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A(MD)No.48 of 2018

and

C.M.P (MD)No.255 of 2018

1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai - 9.

2.The Director of School Education,
College Road, DPI Campus,
Chennai.

3.The District Elementary Educational Officer,
Cheranmahadevi,
Tirunelveli District.

.. Appellants/
Respondents 1 to 3

Vs.

1.Andan Helena

.. 1st Respondent /
Petitioner

2.The Correspondent,
St. antony Higher Secondary School,
Kalyanipuram, Karuthapillaiyur,
Tirunelveli District.

.. 2nd Respondent/
4th Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 26.04.2017 passed in W.P(MD)No.6461 of 2017 by the learned Single Judge.

Prayer in WP(MD) . 6461/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to grant approval to the petitioners appointment as Sewing Teacher in the 4th respondent minority aided school.

For Appellants	: Mr.S.P.Maharajan, Special Government Pleader.
For Respondent No.1	: Mr.D.Venkatesh
For Respondent No.2	: No appearance

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J U D G M E N T

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 26.04.2017 recorded on W.P(MD)No.6461 of 2017. This appeal is by the respondent State authorities. The writ petitioner is the first respondent in this appeal. The school management was the fourth respondent in the writ petition and is respondent in this appeal as well. The school management has chosen not to appear in this appeal. They had not appeared before learned Single Judge as well.

2. The point at issue is, whether the teacher / writ petitioner could be said to have been appointed on the post which was validly available with the school management. At this stage, the learned advocate for the first respondent / original writ petitioner states that the petition was allowed at admission stage itself and therefore there was no occasion for the school to contest the writ petition. We find that, on this appeal, the impugned order of learned Single Judge is stayed as back as on 11.01.2018. The school management is already stated to have been served in this appeal. None appears.

3. When the question is whether there was sanctioned post or not, the say of the school management would be required. The growing tendency by the school management not to assist the proceedings before High Court, to dispute the stand of the Government, may have its own consequences. This is one of such case where we find that, the stand of the school management was required before the writ court. The same is required before the Bench in this appeal as well.

4. Since the school management is already served, no further opportunity needs to be granted. The impugned Judgment therefore needs to be set aside, as the same was passed without hearing one of the important respondents. Since the writ petitioner has already succeeded, it would be open to the writ petitioner / teacher to claim this benefit from the school management, if he desires.

5. During the course of hearing, it is further put to the notice of this Court that, subsequently the writ petitioner has approached this Court by filing W.P(MD)No.2313 of 2018 which is also stated to have been allowed on 09.12.2021, again without hearing the school management. Since that order is not challenged before this Court, no opinion is expressed, but needless to observe that the reasoning of passing this order, if applicable in that case, the State can do needful.



6. This appeal is allowed. The order dated 26.04.2017 recorded on W.P(MD)No.6461 of 2017, is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (LA&MC)

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/ /2022

Sub Assistant Registrar(CS)

smn/32

To

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+1 CC to M/s.SPL GP (SR-9238[F] dated 01/03/2022)

W.A(MD)No.48 of 2018
28.02.2022

RK(16/03/2022) 3P 5C